IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

Notice of Motion No.1787 of 2007
in
Suit No. 929 of 1987

Ratanlal Kanwarlal Nimani ...Plaintiff

vs.

1. Poonamchand Gulabchand Jain
and others ...Defendants

Mr.Cyrus Ardeshir i/b M/s Bilawala and Co. for plaintiff
Mr.S.P.Jog for defendant no.1.
Mr.G.G.Ketkar, First Asstt.to Official Assignee present.

CORAM: S.C.DHARMADHIKARI J.
7th August, 2007

P.C.

1. This Notice of Motion is for a direction to the respondent society to accept the monthly maintenance charges from the plaintiff on the basis that the plaintiff has been in possession of the suit flat/premises.

2. After this motion was heard for some time Mr.Ardeshir appearing for the plaintiff, on instructions from the plaintiff, states that since the plaintiff is in use and occupation of the suit flat and maintenance charges were being paid by himself but now the same are being paid by defendant no.1's well wisher and the society is accepting the same till date. Therefore, he has instructions to state that without prejudice to the rights and contentions of the plaintiff in the suit, the plaintiff has no

objection to the present arrangement being continued but the payment by defendant no.1 of the monthly maintenance charges may not be construed as creating any right in favour of defendant no.1 so also defendant no.1 should not claim any equities on that basis.

3. The learned Advocate appearing for defendant no.1 states that the well wisher is paying the amount of monthly maintenance and he also has no objection if the payment is permitted to be made and accepted subject to further orders in the suit and without prejudice to the rights and contentions of both sides therein.

4. In the light of disposal of the motion by "without prejudice arrangement" recorded above, I see no reason why the respondent society should refuse to accept the cheques/amount forwarded on behalf of defendant no.1 by his well wisher. Needless to state that the society's acceptance thereof would also be without prejudice to the rights and contentions of both sides in the suit.

5. S.O. to 14th August, 2007 for framing issues.

(S.C.DHARMADHIKARI J.)